

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**FINAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 2, Section 3228  
of the General Industry Safety Orders**

**Number of Exits****MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM  
THE 45-DAY PUBLIC COMMENT PERIOD**

There are no modifications to the information contained in the Initial Statement of Reasons except for the following modifications that are the result of Office of State Fire Marshal comments and/or Board staff evaluation.

**Section 3228. Number of Exits.**

This section contains requirements regarding the number of workplace exits.

The original proposed amendments to Section 3228 delete all of the existing regulatory text in Section 3228 and replace it with new language requiring a minimum of two exits in the workplace to allow prompt evacuation of employees during an emergency. Additional amendments were proposed to permit a single workplace exit based on various criteria such that all employees would be able to safely evacuate during an emergency.

In response to comments from the Office of the State Fire Marshal, modifications are proposed to 1) retain language found in the existing subsection (a) which states "every building or useable portion thereof shall have," 2) specify a reference to Title 24, Part 2, California Code of Regulations in the Exception statement and 3) modify the Note that follows subsection (b) to specify that Title 24, Part 2, California Code of Regulations and the local jurisdiction fire department are to be consulted for assistance in determining the correct number of building exits.

The proposed modifications will ensure that the employer will understand the scope of application of Section 3228 and where the referenced Title 24 exit standards can be found. This will further ensure that employers provide the correct number of exits for their buildings so that employees will be able to exit safely during an emergency.

**Summary and Response to Oral and Written Comments:****I. Written Comments**

Ms. Teresa A. Harrison, Acting Regional Administrator, Region IX, United State Department of Labor, Occupational Safety and Health Administration (OSHA), by letter dated October 9, 2007.

Comment:

Ms. Harrison stated that as proposed Board staff's amendments to Section 3328 provide protection that is at least as effective as (ALAEA) the counterpart federal OSHA standards in 29 CFR 1910.36(b), Number of Exit Routes.

Response:

The Board notes federal OSHA's opinion that the proposed amendments to Section 3228 are ALAEA the counterpart federal standard.

Ms. Diane Arend, Regulations Coordinator, Office of the State Fire Marshal (OSFM), Code Development and Analysis, by letter dated November 13, 2007.

Comment:

Ms. Arend stated that OSFM approval of the proposal is contingent on three clarifying revisions that would 1) set aside the proposed deletion of the existing phrase "every building or useable portion thereof shall have at least..." and retain the existing subsection (a) language, 2) add a reference to the exception statement for Title 24, Part 2, California Code of Regulations and, 3) delete the proposed reference to Title 24, 2007 California Building Code, Part 2, Chapter 10, Section 1019, Number of Exits and Continuity and replace it with a reference to Title 24, Part 2, California Code of Regulations. Ms. Arend stated that the proposed revisions will provide more concise coordination of Title 8 and Title 24 requirements and improve clarity for employers seeking guidance on determining occupant load, number, size, location and distance to exits.

Response:

The Board agrees with Ms. Arend's comments and will incorporate the suggested clarifying revisions into the proposal. The Board will make an editorial deviation to Ms. Arend's comment pertaining to the Exception statement. The Exception statement following subsection (a) will be reworded to state, "In accordance with the requirements of Title 24, Part 2, California Code of Regulations, a single exit shall be permitted where the number of employees...."

The Board thanks Ms. Arend for her participation in the Board's rulemaking process.

II. Oral Comments

Oral comments received at the October 19, 2007, Public Hearing in Sacramento, California.

Dr. Jonathan Frisch, Occupational Safety and Health Standards Board Member

Comment:

Dr. Frisch asked how employers are to demonstrate that they do not need more than one exit and asked if there is a document to which employers could refer to determine whether or not more than one exit is needed. Dr. Frisch also asked Board staff to ensure that the proposal is consistent with the requirements of Title 24, California Building Code which becomes effective in January 2008.

Response:

The Board recognizes that the California Building Code, which becomes operative on January 1, 2008, contains criteria which employers are to use to determine if more than one exit is required and, if so, the necessary number or whether a single exit may be sufficient. The California Building Code, based on the standards of the 2006 International Building Code (IBC), is referenced in the proposal. The 2006 IBC describes criteria such as, but not limited to, occupancy, number of employees or occupant load, arrangement and distance to exits, and the number of building floors. The California Building Code addresses these criteria and provides tables that guide the employer in selecting the correct number of exits for the building's occupancy.

The Board staff and Board agree that the proposal should be consistent with the requirements of the California Building Code, as is demonstrated by the inclusion of the reference to Title 24 and the California Building Code requirements pertaining to the number of exits and consultation with the employer's local jurisdiction fire authority. Consultation with local fire authorities during the construction of buildings will ensure exit issues are properly addressed. The local fire authorities also play a significant role in ensuring that older, existing buildings are provided with the proper number of exits.

Mr. Jack Kastorff, Occupational Safety and Health Standards Board Member

Comment:

Mr. Kastorff asked why the proposal references the Title 24 California Building Code versus the National Fire Protection Association (NFPA) 101 Life Safety Code.

Response:

One goal of this proposal is to harmonize the language of the proposal with the exit requirements of the California Building Code which becomes effective on January 1, 2008. This code is based on the 2006 International Building Code, which as determined by Board staff and federal OSHA, is at least as effective as federal OSHA standards in addressing the issue of the minimum number of exits for various occupancies. The California Building Standards Commission conducted hearings resulting in public testimony weighing in heavily on the side of the International Building Codes versus the NFPA 101 Life Safety Code. In the final analysis, the Building

Standards Commission adopted the 2006 IBC as the California Building Code. The Board also recognizes that for the sake of harmony with local fire and building jurisdictions throughout California, it was imperative that Title 8 and California Building standards be harmonized.

MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM  
THE 15-DAY NOTICE OF PROPOSED MODIFICATIONS

No further modifications to the information contained in the Initial Statement of Reasons are proposed as a result of the 15-day Notice of Proposed Modifications mailed on December 11, 2007.

A nonsubstantive modification is proposed to insert the words “at least” after the word “have” in the first sentence so that the proposal will be consistent with the original language of Section 3228 and the suggested modifications by the Office of the State Fire Marshal. This wording was inadvertently omitted from the modified proposal.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

This standard does not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed standard. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the adopted action.